

REMARKS

Claims 1-9 are all the claims pending in the application.

Claim Rejections - 35 USC § 102

Claims 1 and 5 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Dang, *et al.* (U.S. Patent Publication No. 2003/0189896; hereinafter “Dang”). Applicants respectfully traverse the prior art rejection.

Claim 1 relates to a method of re-configuring a network element of a transmission network to restore traffic after a failure. Claim 1 (as amended) recites:

generating a configuration request to implement a new cross-connection through said network element,
performing said configuration request in a fetch-ahead phase comprising only configuration steps essential for fast implementation of said new cross-connection and skipping security related configuration steps thereby providing reduced security against process restarts; and
performing said configuration request in a consolidation phase comprising said skipped security related configuration steps.

Applicants respectfully submit that Dang does not disclose “a new cross-connection through a network element”, as recited in claim 1. As described above, Dang is concerned with reestablishing a connection path through a network, as opposed to the method by which individual network elements implement a new cross-connection through a network element. Claim 1, however, recites “generating a configuration request to implement ***a new cross-connection through said network element***”. Paragraph [0032] of Dang, which the Examiner cites as allegedly disclosing “generating a configuration request to implement a new cross-

connection through said network element”, merely discloses a “fast link state announcement” which informs a head node of a network connection failure, but does not implement a “new cross-connection”, as recited in claim 1.

Furthermore, Applicants respectfully submit that Dang fails to disclose

performing said configuration request in a fetch-ahead phase comprising only configuration steps essential for fast implementation of said new cross-connection and skipping security related configuration steps thereby providing reduced security against process restarts;
and performing said configuration request in a consolidation phase comprising said skipped security related configuration steps.

As explained in the response filed May 14, 2007, Dang discloses that a failed network path is rerouted first over a network path that does not fulfil quality of service criteria defined in the SLA, and then a second path is determined that fulfils the quality of service criteria defined in the SLA. Hence, traffic that formerly travelled on the failed connection is re-routed two times. However, claim 1 recites only a single “configuration request” that is performed in two phases.

In the Final Office Action of June 27, 2007, the Examiner asserts that “Dang discloses a new cross-connection through a network element, because when reconfiguring a network it is inherent that each network element must also have new cross connection”. See Office Action at pg. 9. Although Dang teaches a reconnect method for re-establishing a path through a network, Dang is silent on how a request for connection is specifically processed, on which this matter bears particular relevance. As recited by claim 1, the generated configuration request is

performed in a first fetch-ahead phase comprising only configuration steps essential for fast implementation of the new cross-connection and skipping security related configuration steps, and the configuration request is also performed in a second consolidation phase comprising the previously skipped security related configuration steps. Dang is completely silent on the processing of any configuration requests.

What Dang teaches is to establish first a network path that does not fulfil quality criteria, and then to create a new network path that fulfils the quality criteria. It is clear that the first and the second paths are different, otherwise they would have the same quality criteria. This means that other network elements are involved, so it is evident from Dang that the network nodes along the first and second paths are different.

However, Dang's individual network elements do not know all of this information, as they just receive requests to create internal connections. So when Dang sets up the first connection, he has to inform the related network elements along the first path, one after the other, to set up internal cross-connections. After all of this is completed, Dang will have created the first path. What happens then is that Dang releases this first connection and then establishes a new, second connection that fulfils the higher quality criteria. Dang consequently has to inform the network elements along the second path to establish internal connections. But, the second path network elements are different from the first path network elements. Therefore, what the second path's network elements will do is not a consolidation phase for the internal cross-connections previously established in the first path's network elements.

The “link state announcement” is definitely not the claimed configuration request. The link state announcement informs the head node (i.e. the node terminating the path) of the failure. It is then the responsibility of the head node to set up a new path through the network. As is commonly known in the art, paths are established by informing the affected network nodes to establish the path. This is done through a series of connection requests. In essence, Dang teaches to send different connection requests to different network nodes to create a first path and then a second path. How the connection requests are processed in each network node is not taught by Dang.

The argument that internal cross-connections must inherently be switched in the network nodes along the paths to be created but that the single link state announcement triggers the new cross-connection is highly inconsistent, because the re-routing is done by the head-end node. This argument mixes the internal steps of implementing an internal cross-connection with the external steps in the network (i.e. outside the individual network elements) to establish the new network path. The Examiner’s argument that switching internal cross-connections is an inherent feature and the Examiner’s subsequent correct admission that this is something different from switching the network path appears to be based on an incorrect identification of a message sent to a completely different network node (i.e. the message that informs the head-end node of the failure). The Examiner improperly associates Dang’s message sent to the different network node, with the claimed configuration request that initiates the set-up of the internal cross-connection and which therefore must be received by the particular network element respectively

implementing the internal cross-connection. Dang's message sent to the different network would not teach or suggest such a configuration request.

Accordingly, Applicant respectfully submit that independent claim 1 is not anticipated by Dang under 35 U.S.C. § 102(b) because the reference does not disclose all of the features of the claim. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of independent claim 1.

Applicants also respectfully submit that independent claim 5 recites features similar to claim 1, except in apparatus form, and is *at least* patentable based on the same reasoning. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of independent claim 5.

Claim Rejections - 35 USC § 103

Claims 2 and 7 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dang in view of Ardis, *et al.* (U.S. Patent No. 6,591,373; hereinafter "Ardis"). Claims 3, 4, 8 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dang in view of Legge ("Change your screen resolution: it could be a whole new ballgame"). Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Dang in view of Jakel, *et al.* (CA 02272425; hereinafter "Jakel") and Haakana, *et al.* (U.S. Patent No 6,801,774; hereinafter "Haakana").

Applicants respectfully submit that neither Ardis, Legge, Jakel, nor Haakana compensates for the deficiencies of Dang. Therefore, Claims 2 -4 and 6-9 would not have been obvious under 35 U.S.C. § 103(a) because the applied references, alone or in combination, do not

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teach or suggest all of the features of the claims. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 2-4 and 6-9.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Lenny R. Jiang
Registration No. 52,432

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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CUSTOMER NUMBER

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